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Report of the Secretary-General on the situation concerning Western Sahara

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1570 (2004) of 28 October 2004, by which the Council extended the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) until 30 April 2005. In the same resolution, the Council requested me to submit an interim report, within three months of the adoption of the resolution, on the evolution of the situation and on the Mission's size and concept of operations, with further detail on the options discussed in my report of 20 October 2004 (S/2004/827) regarding the possible reduction of MINURSO staff, including civilian and administrative personnel. The present report covers developments since the issuance of the interim report of 27 January 2005 (S/2005/49).

II. Political situation

2. Notwithstanding a certain improvement in the political climate in the region, I regret to report once again that there remains lack of agreement, as described in my two previous reports, on how to overcome the deadlock between the parties and enable the people of Western Sahara to exercise their right to self-determination.

III. Activities on the ground

A. Activities of the military component

3. As at the beginning of April 2005, the military component of MINURSO stood at 227 military observers, administrative clerks and medical unit personnel, against the authorized strength of 230. Under the Command of Major General György Száraz (Hungary), MINURSO continued to monitor the ceasefire in Western Sahara, which has been in effect since 6 September 1991. The area of responsibility has in general remained calm.

4. During the reporting period, MINURSO performed 1,343 ground patrols and 109 air patrols to visit and inspect units larger than company size of the Royal Moroccan Army and the military forces of the Frente Polisario, in accordance with

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military agreement No. 1 between the Royal Moroccan Army and MINURSO on the one hand, and the Frente Polisario military forces and MINURSO on the other.

5. Both parties have protested alleged actions of the other party, which MINURSO was unable to substantiate. In particular, the Moroccan side considers the occasional demonstrations in the buffer strip by civilian supporters of the Frente Polisario (mainly from outside of the region) a provocation and a violation of the ceasefire, including because these demonstrators are allegedly escorted by armed military personnel of Polisario. One such demonstration took place during the reporting period. While the entry of armed forces of either side into the buffer strip is prohibited under military agreement No. 1, MINURSO was not in a position to verify at first hand the presence of armed Polisario personnel during the last of these demonstrations.

6. The Frente Polisario, for its part, protested an incident in which a civilian was allegedly the victim of a deliberate shooting from across the berm. It also maintained that clandestine migrants, referred to in previous reports, were mistreated at the hands of Moroccan personnel at the berm. While these incidents were denied by Morocco, the results of the investigation of both incidents undertaken by MINURSO were inconclusive.

7. It will be recalled that actions by the parties which if undertaken or maintained would constitute violations of military agreement No. 1 were reported in my interim report (S/2005/49). Both parties had informed MINURSO at that time that these actions were aimed at addressing clandestine migration and smuggling activities. Despite its limited resources and the added workload, MINURSO was able to complete in March 2005 an internal assessment of the state of compliance by the parties with the military agreements, putting in place, in the process, a database that will allow information obtained by military observers to be tracked and analysed systematically in the future. In regard to military agreement No. 1, MINURSO established that there has been a serious deterioration in compliance, including in the following ways:

(a) Continued installation and upgrading of radar and surveillance capability by the Royal Moroccan Army in over 40 locations along the entire length of the berm, although the agreement prohibits strengthening of equipment in the restricted areas (the two 30-kilometre wide areas to the north and west of the berm for the first area and to the south and east of the berm for the second);

(b) Improvement of defence infrastructure, including construction of a second strand of the berm by the Royal Moroccan Army, whereas the agreement prohibits all improvement of defence infrastructure, including the construction of new lines of defence (sand, stone or concrete);

(c) Live-fire military exercises by the Royal Moroccan Army that occasionally extend to the restricted areas (towards the north-east corner of the Territory), while the Agreement permits live-fire exercises only in the areas of limited restrictions (the stretches of land located on the northern and western side of the first restricted area and on the southern and eastern side of the second restricted area), subject to prior notification to MINURSO if they involve the use of weapons of a calibre above 9 millimetres;

(d) Continued deployment by the Frente Polisario of a unit of armed personnel with anti-aircraft weapons in the area known as the "Spanish fort" in the

restricted area east of the berm, as well as concrete reinforcement of the fort's walls, although the Agreement prohibits all tactical redeployment of troops, units, equipment and weapons;

(e) Repeated incursions into the buffer strip (the area covering a width of 5 kilometres that runs along the south and east of the berm) by armed Polisario personnel in military vehicles, although the Agreement prohibits access to the buffer strip, by land or by air, of personnel and equipment of the military forces of both sides;

(f) Continued imposition by the Frente Polisario of restrictions on the movement of MINURSO personnel, both military and civilian, including the demand that prior notification be given by MINURSO before visits, when the Agreement stipulates that MINURSO military observers enjoy total freedom of movement and action to discharge their tasks, including carrying out at any time any kind of patrol, by ground or by air, in the MINURSO area of responsibility;

(g) After-the-fact submission, by both sides, of requests for or notifications of regulated or restricted actions, whereas the agreement specifies the periods within which such requests or notifications must be submitted.

8. While establishing these overall trends, MINURSO was not in a position to determine when the non-compliance actually started to seriously undermine the letter and the spirit of military agreement No. 1. There is, however, no doubt that this was already well under way when the actions referred to in my last report came to the attention of MINURSO. A number of factors contributed to the lateness of this discovery, including the limited number of MINURSO military observers and team sites in an extensive area of responsibility, as described in my last report, as well as limitations on night-time patrols by military observers.

9. With regard to military agreements No. 2 and No. 3, the parties continue to extend a high level of cooperation to MINURSO concerning the marking and disposal of mines and unexploded ordnance. During the period under review, MINURSO discovered and marked an additional 127 pieces of mines and unexploded ordnance. Thirteen disposal operations were monitored, all carried out by the Royal Moroccan Army.

10. As mentioned in my previous reports, MINURSO, in close cooperation with the Geneva International Centre for Humanitarian Demining (GICHD), continued to develop an information management system for mine action in order to improve the operational capability of the Mission's military component and to build a comprehensive database to support, when conditions allow, a wider mine action campaign. At the beginning of March 2005, a delegation from GICHD visited the Mission and provided training for MINURSO civilian and military personnel in the use of the information management system, which has now been updated to an advanced version. MINURSO intends to set up, within existing financial and human resources, a joint (military-civilian) section to manage and update the information management system.

B. Prisoners of war, other detainees and persons unaccounted for

11. The Frente Polisario continued to hold 410 Moroccan prisoners of war, some of whom have been in captivity for many years. On 12 February 2005, an

unconfirmed report alleged that two of these prisoners had escaped and returned to Morocco. The International Committee of the Red Cross (ICRC) continues to pursue the question of persons still unaccounted for in relation to the conflict.

C. Illegal migration

12. On 22 March 2005, MINURSO transported one Bangladeshi national, who was being sheltered by Frente Polisario forces in the Tifariti area, to Zouerate, Mauritania, where he was transferred to the International Organization for Migration for repatriation. Recently, MINURSO also learned of and visited an additional 46 stranded migrants, reportedly from Bangladesh, who have been in the care of the Frente Polisario in the Tifariti area since the first week of April 2005. The stranded migrants alleged that they arrived from Casablanca, ending in the Tifariti area after being forced across the berm into the buffer strip.

13. While MINURSO has thus far been able to contribute to the repatriation operations, the fact remains that the Mission's capacity to assist stranded migrants is limited. MINURSO will continue to coordinate with humanitarian agencies, as needed, so as to extend logistical support for repatriation operations on a humanitarian basis, subject to resource availability and as long as it does not affect the discharge of its core mandate.

D. Western Saharan refugees

14. The World Food Programme (WFP) is carrying out a relief and recovery programme for Western Saharan refugees, budgeted at approximately $40 million over a two-year period, from September 2004 to August 2006. So far, about 29 per cent of the required budget has been resourced through multilateral and bilateral contributions.

15. As indicated in my last report, WFP and the Office of the United Nations High Commissioner for Refugees (UNHCR) have been increasing their monitoring and logistical capacity in the Tindouf refugee camps. In this context, a joint monitoring mission to the camps was organized by both agencies from 5 to 12 March 2005 to look into food distribution mechanisms. Pending the results of the monitoring mission and further clarification by some major donors, the food situation will remain critical until the end of the year, starting as early as June 2005. It is hoped that a common understanding will prevail on the food distribution mechanisms and that no further breaks will occur in the future.

16. A donor visit to the Tindouf refugee camps was facilitated by WFP, UNHCR and MINURSO from 16 to 19 March 2005 with the participation of 11 donor country representatives, the European Commission's Humanitarian Aid Office, the United Nations Children's Fund, the United Nations Industrial Development Organization and various NGOs. The visit provided an opportunity to further raise interest among donor countries concerning this protracted refugee situation and to clarify a number of points regarding, in particular, issues relating to food distribution, including recurrent breakdowns in the food pipeline. It also permitted a discussion of issues relating to information-sharing and coordination among the humanitarian actors.

E. Confidence-building measures

17. It will be recalled that the parties, and Algeria as country of asylum, made a positive evaluation of the pilot phase of family visits in 2004 and agreed that this should be pursued in 2005. In early January 2005, UNHCR, in close consultation with my Special Representative for Western Sahara, submitted to them a new plan of action for the implementation of the 2005 phase.

18. On 3 February 2005 UNHCR hosted a briefing meeting for donors in Geneva with the participation of my Special Representative, where several additional donors expressed interest in participating in the confidence-building measures programme. On 20 March, UNHCR launched an appeal for the amount of $3,193,659, covering the budgetary requirements of the confidence-building measures programme during 2005. A major portion of that budget relates to the aircraft, aviation fuel, telephone link equipment, telephone operation and staffing requirements. Provision is also made for seminars involving civil society from the Territory and the refugee community. The contributions and pledges received to date, amounting to $1,823,509, will enable UNHCR and MINURSO to resume family visits later this month, assuming agreement by the parties concerned. In this regard, Polisario and Algeria, as country of asylum, have given their approval to the new plan of action. On 12 April the Moroccan Government informed UNHCR of its intention to send a delegation to Geneva to discuss further the new plan of action.

F. African Union

19. During the reporting period, the observer delegation of the African Union to MINURSO, led by its senior representative, Ambassador Yilma Tadesse (Ethiopia), continued to provide support and cooperation to the Mission. I wish to reiterate my appreciation for the African Union's contribution.

IV. Financial aspects

20. By its resolution 58/309 of 18 June 2004, the General Assembly appropriated an amount of $44,041,200 (gross), equivalent to $3,670,100 per month, for MINURSO for the period from 1 July 2004 to 30 June 2005. The assessment of these amounts is subject to the decision of the Security Council to extend the mandate of the Mission. Should the Council decide to extend the mandate of MINURSO beyond 30 April 2005, the cost of maintaining the Mission until 30 June 2005 will be limited to the monthly amounts approved by the General Assembly. As at 31 March 2005, unpaid assessed contributions to the special account for MINURSO amounted to $48.9 million, which is a matter of concern. This amount exceeds a full year's worth of Mission costs. The total outstanding assessed contributions for all peacekeeping operations as at 31 March 2005 amounted to $1,365.9 million.

V. Observations and recommendations

21. The recent reduction in negative rhetoric and increase in high-level contacts in the region is an encouraging development. However, the overall improved regional

political climate has not yet led to movement in the positions of the parties on the question of Western Sahara and the core issue of how the people of the Territory can exercise their right of self-determination.

22. I remain prepared to help the parties reach a just, lasting and mutually acceptable political solution and regret that such a solution remains blocked, either for reasons of substance or because existing channels for the search for common ground are not being used. The stalemate in this long-standing conflict has left tens of thousands of Saharan refugees living in deplorable conditions, relying for their survival on the generosity of the international community. It is therefore my sincere hope that all concerned will show the necessary political will to break the current deadlock, thus enabling the resumption of the efforts of the United Nations to assist the parties in reaching a mutually acceptable political solution. In the meantime, both parties must refrain from inflammatory statements or taking any action, including legal, political or military, which would have the effect of further complicating the search for a solution or cause unnecessary friction.

23. While there has not been a breach of the ceasefire that has been in effect since 6 September 1991, and there is no indication that the leadership of either party intends to initiate hostilities, I should like to register my concern at the scale of the violations of military agreement No. 1, outlined in paragraph 7 above. While frustration stemming from the continuing political deadlock could be a factor in the deterioration of compliance that has been observed, it does not exonerate the parties of their responsibilities. Their fundamental commitment to the ceasefire and the military agreements must therefore be reinforced and reconfirmed. I am concerned, therefore, by the most recent reported statement by the Polisario leadership that a "return to arms" may be "closer than ever".

24. As indicated in my last report, both parties have explained to MINURSO that certain actions were needed to combat illegal migration and smuggling. This explanation may indicate the feeling of both parties that the agreements, which were concluded when these phenomena were either non-existent or negligible, are outdated. If this is the case, there may be a need to review and adjust the agreements. As I informed the Security Council in my previous report, MINURSO intends to raise this matter with the parties, taking into consideration the need to ensure that the end result of any possible review is consistent with the principle that military forces should maintain the status quo at the time of the ceasefire, and that any adjustments should be transparent and mutually acceptable.

25. Pending an agreement to that effect, it is incumbent on the parties to fully comply with the military agreements now in force. I call upon them to do so and remind them that adherence to their obligations under the agreements is not contingent upon compliance by the other party. Each has an individual responsibility for ensuring compliance with these documents by all forces under its authority. In this context, restrictions imposed on the freedom of movement of MINURSO are not acceptable.

26. By its resolutions 1541 (2004) and 1570 (2004), the Security Council asked me to examine ways to reduce the size of MINURSO. I remain convinced that this would not be advisable at this stage. Given the prevailing conditions on the ground, MINURSO should be in a position to provide an adequate response and ensure the effective monitoring of the ceasefire. It is my view that the Mission should, at a minimum, be maintained at its current strength and that, in view of the gravity of

some of the violations described above, consideration could be given to its strengthening. While I may revert to the Security Council on this matter, a review of MINURSO standard operating procedures has in the meantime started, in order to further enhance its monitoring and verification capabilities. The Mission is also examining ways to increase its ground coverage within existing resources. However, the maintenance of the ceasefire regime will ultimately depend on a recommitment of the parties to their ceasefire undertakings.

27. With regard to the review of the civilian component, a team from the Secretariat is expected to travel to MINURSO in May 2005 to finalize the comprehensive review undertaken of the structure of the administrative and other civilian components of the Mission. I expect to be in a position to report to the Council on this matter soon.

28. I am concerned by the potential dangers for civilians who enter the heavily mined buffer strip and restricted areas. In this regard, illegal migrants are especially vulnerable, as are participants in civilian demonstrations. While civilians obviously have a right to demonstrate, they are evidently being organized and escorted to stage protests in the dangerous, heavily mined buffer strip, in front of the military positions at the berm. Those who encourage these demonstrations should understand the responsibility they are taking by putting civilians in these precarious circumstances. In any event, sufficient advance notification of such demonstrations should be given, including to MINURSO. Failing this, given the considerable distance between MINURSO team sites and the areas where demonstrations take place, it will remain very difficult for United Nations observers to reach the locations of the demonstrations in a timely manner to verify allegations by either side. In any case, the participation of armed military personnel in demonstrations in the buffer strip would be in violation of military agreement No. 1. Organizers should therefore ensure that no weapons enter this area and that no demonstrator wears military or military-like clothing so as to eliminate a potential source of provocation.

29. The Frente Polisario continues to hold Moroccan prisoners of war. I call on it once again to release all prisoners without any further delay, in compliance with international humanitarian law and numerous Security Council resolutions and presidential statements. At the same time, I appeal to Morocco, and also to the Frente Polisario, to cooperate fully with ICRC in accounting for those who are still missing owing to the conflict.

30. I am grateful to donors who have made or pledged generous contributions to the programme on confidence-building measures led by UNHCR and supported by MINURSO. I am encouraged by expressions of interest of others who are envisaging making contributions. I hope that the family visits can resume expeditiously and that it will be possible to move towards the organization of seminars involving the civil society of the Territory and the refugee community later this year.

31. In view of the prevailing situation, I continue to believe that MINURSO plays a vital role on the ground and would like to recommend the extension of its mandate for a further six months, until 31 October 2005.

32. In conclusion, I would like to express my appreciation to my Special Representative, Alvaro de Soto, and the men and women of MINURSO, who continue to work tirelessly under difficult conditions in the discharge of the Mission's mandate.

Annex

United Nations Mission for the Referendum in Western Sahara: contributions as at 10 April 2005

Country	*Military observers*[a]	*Troops*[a]	*Civilian police*[b]	*Total*
Argentina	1			1
Austria	2			2
Bangladesh	8			8
China	19			19
Croatia	2			2
Egypt	19		4	23
El Salvador	5		2	7
France	25			25
Ghana	10	7		17
Greece	1			1
Guinea	5			5
Honduras	12			12
Hungary	7			8
Ireland	4			4
Italy	5			5
Kenya	9			9
Malaysia	13			13
Mongolia	3			3
Nigeria	7			1
Pakistan	7			7
Poland	1			1
Republic of Korea		20		20
Russian Federation	25			25
Sri Lanka	2			2
Uruguay	8			8
Total	**200**	**27**	**6**	**233**

[a] Authorized strength of military personnel is 230.
[b] Authorized strength is 81.

MOROCCO
ALGERIA
MAURITANIA
Western Sahara
ATLANTIC OCEAN
CANARY ISLANDS
Lanzarote
La Palma
Tenerife
Fuerteventura
Gomera
Hierro
Las Palmas
Gran Canaria
Tiznit
Sidi Ifni
Tan Tan
Zag
Tindouf
Tarfaya
Laayoune
Smara
Boujdour
Boucraa
Hawza
Mahbas
Al Farcia
Mehaires
Tifariti
Bir Lahlou
Bentili
Bir Mogrein
Guelta Zemmur
Chalwa
Oum Dreyga
Dakhla
Baggari
Mijek
Imlily
Awsard
Agwanit
Dougaj
Zouerate
Techla
Zug
Bir Gandouz
Guerguerat
Bou Lanuar
Nouadhibou
La Guera
Choum
Atar
NORTHERN SECTOR
SOUTHERN SECTOR
MINURSO
Deployment as of
April 2005
Medical unit
Medical station
Identification centre
Liaison office
UN team site
Sector boundary
Berm
Paved road
0 50 100 150 200 km
0 50 100 mi
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